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SEP 16 2011

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

HENRY J. IACOVETTI, : PER *M. Z. P.*
Petitioner, : DEPUTY CLERK
v. :
THOMAS CORBETT, JR., : (Judge Kosik)
Respondent, :

ORDER

AND NOW, THIS 16 DAY OF SEPTEMBER, 2011, IT APPEARING TO
THE COURT THAT:

- (1) Petitioner, Henry J. Iacovetti, a state prisoner currently housed at the State Correctional Institution at Frackville, filed this Habeas Corpus Petition pursuant to 28 U.S.C. §2254 on August 17, 2011, challenging his state conviction in the Court of Common Pleas of Erie County. (Doc. 1);
- (2) Petitioner also filed a Motion for Leave to proceed in forma pauperis on August 23, 2011. (Doc. 4);
- (3) The case was assigned to Magistrate Judge J. Andrew Smyser;
- (4) On August 26, 2011, the Magistrate Judge issued a Report and Recommendation recommending that the Petition be transferred to the United States District Court for the Western District of Pennsylvania. (Doc. 8);
- (5) Petitioner was convicted in the Court of Common Pleas of Erie County, which is located in the territorial jurisdiction of the United States District Court for the Western District of Pennsylvania;
- (6) No objections have been filed to the Report and Recommendation. Moreover, Petitioner has been filing documents captioned in the United States District Court for the Western District of Pennsylvania. (Docs. 9, 10, 11 and 12);

AND FURTHER APPEARING THAT:

(7) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(8) We have considered the Magistrate Judge's Report and we concur with his recommendation;

(9) The Petitioner was charged, convicted, and sentenced in the Court of Common Pleas of Erie County, which is located in the Western District of Pennsylvania. In the interest of justice, and in accordance with 28 U.S.C. §2241(d), we find it is appropriate to transfer this Petition to the Western District of Pennsylvania.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The August 26, 2011 Report and Recommendation of Magistrate Judge J. Andrew Smyser (Doc. 8) is **ADOPTED**; and

(2) The Clerk of Court is directed to **TRANSFER** this case to the United States District Court for the Western District of Pennsylvania, and to **FORWARD** a copy of this Order to the Magistrate Judge.



Edwin M. Kosik
United States District Judge